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EXAMINER

THERIAULT, STEVEN B

| ART UNIT | PAPER NUMBER |
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2179

DATE MAILED: 12/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---------------------------------|--------------------------------|--|
| Office Action Summary | Application No. 10/092,008 | Applicant(s) NGUYEN, LOC V. | |
| | Examiner Steven B. Theriault | Art Unit 2179 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the following communications: The original application filed on 03/06/2002, with a continuation-in-part of 09/24/2001, and provisional filing date of 10/17/2001.
2. Claims 1-41 are pending in the case. Claims 1, 22, 40 and 41 are the independent claims. Applicant's attention is directed to the fact that a new examiner has been assigned to this case. The Examiner's name and telephone number are provided below.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "432" and "436" in Figure 7 have both been used to designate rotation indicators. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).
A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).
Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).
5. **Claims 1, 2 and 4 – 41** are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, and 4-41 of copending Application No.

10/092,362 (hereinafter '362). Although the conflicting claims are not identical, they are not patentably distinct from each other because the two applications describe synonymous computer methods for electronically creating concentrically disposed menus. It is known in geometry that a circle contains points along the curvilinear line that form the reference points of triangles. A triangle is a polygon having three sides and therefore, it is the examiners interpretation that a polygon and a curvilinear line are synonymous geometrical shapes.

With respect to **Independent claim 1**, when we compare the present claim to Claim 1 of '362 we can see the same verbiage and the only differences are of the highlighted words curvilinear and polygonal:

Present Application Claim 1

- Displaying at least a portion of a first polygonal menu comprising a first set of selectable options circumferentially disposed on the first **polygonal** menu;
- Receiving a user selection of an option from the first set of selectable options; and
- Displaying at least a portion of a second polygonal menu comprising a second set of selectable options circumferentially disposed on the second polygonal menu, wherein the second **polygonal** menu is concentrically-disposed relative to the first **polygonal** menu.

'362 Claim 1

- Displaying at least a portion of a first curvilinear menu comprising a first set of selectable options circumferentially disposed on the first **curvilinear** menu;
- Receiving a user selection of an option from the first set of selectable options;
- And displaying at least a portion of a second curvilinear menu comprising a second set of selectable options circumferentially disposed on the second curvilinear menu, wherein the second **curvilinear** menu is concentrically-disposed relative to the first **curvilinear** menu.

The present claim does not disclose expressly the displaying a first or second *curvilinear menu and displaying a set of selectable options disposed around the menu* as disclosed in '362. However, the present application does disclose the polygonal menu. A polygon menu is a curvilinear shape.

Further, a triangle can have reference points along the curvilinear line of a circle. The examiners interpretation of the present claim, regarding a polygonal menu, is that a polygon shape is a curvilinear shape and visa versa. It would have been obvious to one of ordinary skill in the art, having the teachings of the present application and '362 before him at the time of the invention was made, to modify the polygonal menu taught by the present application to include the curvilinear menus of '362 in order to obtain a system that is able to display geometrically shaped menus. One would have been motivated to make such a combination because the ability to display menus in a visually interesting manner as taught by '362.

With respect to **dependant claim 2**, when we compare the present claim to Claim 2 of '362 we can see the same verbiage and the only differences are of the highlighted words *curvilinear* and *polygonal*:

Present Application Claim 2

The method of claim 1, further comprising:

- Receiving a user selection of an option from the second set of selectable options;
- And displaying at least a portion of a third **polygonal** menu comprising a third set of selectable options circumferentially disposed on the third **polygonal** menu, wherein the third polygonal menu is concentrically disposed relative to the first and second **polygonal** menus.

'362 Claim 2

The method of claim 1, further comprising:

- Receiving a user selection of an option from the second set of selectable options;
- And displaying at least a portion of a third **curvilinear** menu comprising a third set of selectable options circumferentially disposed on the third **curvilinear** menu, wherein the third curvilinear menu is concentrically disposed relative to the first and second **curvilinear** menus.

The present claim does not disclose expressly the receiving of a user selection from the second menu and options of a *curvilinear menu* and then displaying the third menu and set of options as disclosed in '362. However, the present application does disclose the polygonal menus with three sets of options. A polygon menu is a curvilinear shape. Further, a triangle can have reference points along the curvilinear line of a circle. The examiners interpretation of the present claim, regarding a polygonal menu, is that a polygon shape is a curvilinear shape and visa versa. It would have been obvious to one of ordinary skill in the art, having the teachings of the present application and '362 before him at the time of the invention was made, to modify the polygonal menu taught by the present application to include the curvilinear menus of '362 in order to obtain a system that is able to display geometrically shaped menus. One would have been motivated to make such a combination because the ability to display menus in a visually interesting manner as taught by '362.

With respect to **dependant claims 4, 5, 6 and 7** when we compare the present claims to Claims 4, 5, 6, and 7 of '362 we can see the same verbiage and the only differences are of the highlighted words *curvilinear* and *polygonal*:

Present Application Claims 4, 5, 6, and 7

Wherein receiving comprises:

- Rotating the first **polygonal** menu about an axis to align a desired option from the first set with a fixed selection indicator.
- Detecting a user action indicating selection of the option aligned with the selection indicator.
- Moving a selection indicator circumferentially around the first **polygonal** menu to align the selection indicator with a desired option from the first set.
- Detecting a user action indicating selection of the option aligned with the selection indicator.

'362 Claims 4, 5, 6, and 7

Wherein receiving comprises:

- Rotating the first **curvilinear** menu about an axis to align a desired option from the first set with a fixed selection indicator.
- Detecting a user action indicating selection of the option aligned with the selection indicator.
- Moving a selection indicator circumferentially around the first **curvilinear** menu to align the selection indicator with a desired option from the first set.
- Detecting a user action indicating selection of the option aligned with the selection indicator.

The present claims do not disclose expressly the rotating of the first *curvilinear menu about an axis to align the desired option* and then *detecting a user action indicating the selected option and moving the selection indicator to the desired option* as disclosed in '362. However, the present application does disclose the polygonal menus with rotating the menu about an axis and detecting a user's selection and moving the selection indicator to the selection. A polygon menu is a curvilinear shape. Further, a triangle can have reference points along the curvilinear line of a circle. The examiners' interpretation of the present claim, regarding a polygonal menu, is that a polygon shape is a curvilinear shape and visa versa. It would have been obvious to one of ordinary skill in the art, having the teachings of the present application and '362 before him at the time of the invention was made, to modify the polygonal menu taught by the present application to include the curvilinear menus of '362 in order to obtain a system that is able to display geometrically shaped menus. One would have been motivated to make such a combination because the ability to display menus in a visually interesting manner as taught by '362.

With respect to **dependant claims 8-12** when we compare the present claims to Claims 8-12 of '362 we can see the same verbiage:

Present Application Claims 8-12

- Where the selectable options from the second set are determined by a selected option from the first set.
- Where the selectable options from the second set are sub-options of a selected option from the first set.
- Where the selectable options from the first and second sets are hierarchically related.
- Where at least one selectable option comprises an icon.
- Where at least one selectable option comprises text description.

'362 Claims 8-12

- Where the selectable options from the second set are determined by a selected option from the first set.
- Where the selectable options from the second set are sub- options of a selected option from the first set.
- Where the selectable options from the first and second sets are hierarchically related.
- Wherein at least one selectable option comprises an icon.
- Where at least one selectable option comprises text description.

'362, teaches the selectable options from the second set are determined by a selection from the first set and where the selectable options are sub-options of the selected option. '362 also teaches the selectable option can be an icon or text description. Compare with the present application claims 8-12.

With respect to **dependant claims 13-17** when we compare the present claims to Claims 13-17 of '362 we can see the same verbiage and the only differences are of the highlighted words curvilinear and polygonal:

Present Application Claims 13-17

- Where at least one selectable option is associated with an audio sample, and wherein the audio sample is played in response to the corresponding option being aligned with a selection indicator.
- Where the second **polygonal** menu is concentrically displayed around the first **polygonal** menu.
- Wherein receiving a user selection of an option from the second set comprises: Rotating the second **polygonal** menu about an axis to align a desired option from the second set with a fixed selection indicator.
- Where receiving a user selection of an option from the second set comprises: Moving a selection indicator circumferentially around the second **polygonal** menu to align the selection indicator with a desired option from the second set.

'362 Claims 13-17

- Where at least one selectable option is associated with an audio sample, and wherein the audio sample is played in response to the corresponding option being aligned with a selection indicator.
- Where the second **curvilinear** menu is concentrically displayed around the first **curvilinear** menu.
- Wherein receiving a user selection of an option from the second set comprises: Rotating the second **curvilinear** menu about an axis to align a desired option from the second set with a fixed selection indicator.
- Where receiving a user selection of an option from the second set comprises: moving a selection indicator circumferentially around the second **curvilinear** menu to align the selection indicator with a desired option from the second set.

The present claims do not disclose expressly the rotating of the second *curvilinear menu* is concentrically displayed and rotating the curvilinear menu about an axis to align the selection indicator with the selected option as disclosed in '362. However, the present application does disclose the first and second set of polygonal menus, with rotating the menu about an axis and detecting a user's selection and moving the selection indicator to the selection. A polygon menu is a curvilinear shape. Further, a triangle can have reference points along the curvilinear line of a circle. The examiners' interpretation of the present claim, regarding a polygonal menu, is that a polygon shape is a curvilinear shape and visa versa. It would have been obvious to one of ordinary skill in the art, having the teachings of the present application and '362 before him at the time of the invention was made, to modify the polygonal menu taught by the present application to include the curvilinear menus of '362 in order to obtain a system that is able to display geometrically shaped menus. One would have been motivated to make such a combination because the ability to display menus in a visually interesting manner as taught by '362.

With respect to **dependant claims 18-21** when we compare the present claims to Claims 18-21 of '362 we can see the same verbiage and the only differences are of the highlighted words curvilinear and polygonal:

Present Application Claims 18-21

- Where the first and second **polygonal** menus are rotatable about a common axis in response to a user command.
- Where the second **polygonal** menu is displayed in response to the selection of an option from the first set.
- Where the first **polygonal** menu is only partially displayed in the graphical user interface, and wherein the first set of selectable options comprises a subset of available options associated with the first **polygonal** menu.
- Where the first **polygonal** menu is rotatable in response to a user command to display a different subset of available options.

'362 Claims 18-21

- Where the first and second **curvilinear** menus are rotatable about a common axis in response to a user command.
- Where the second **curvilinear** menu is displayed in response to the selection of an option from the first set.
- Where the first **curvilinear** menu is only partially displayed in the graphical user interface, and wherein the first set of selectable options comprises a subset of available options associated with the first **curvilinear** menu.
- Where the first **curvilinear** menu is rotatable in response to a user command to display a different subset of available options.

The present claims do not disclose expressly the rotating about a common axis of the first and second *curvilinear menus and where the menu is only partially displayed and the rotating of the curvilinear menu about an axis in response to a user command* as disclosed in '362. However, the present application does disclose the first and second set of polygonal menus, with rotating the menu about an axis and detecting a user's selection and the ability to display partial menus and moving the selection indicator to the selection. A polygon menu is a curvilinear shape. Further, a triangle can have reference points along the curvilinear line of a circle. The examiners interpretation of the present claim, regarding a polygonal menu, is that a polygon shape is a curvilinear shape and visa versa. It would have been obvious to one of ordinary skill in the art, having the teachings of the present application and '362 before him at the time of the invention was made, to modify the polygonal menu taught by the present application to include the curvilinear menus of '362 in order to obtain a system that is able to display geometrically shaped menus. One would have been motivated to make such a combination because the ability to display menus in a visually interesting manner as taught by '362.

With respect to **Independent claim 22**, when we compare the present claim to Claim 22 of '362 we can see the same verbiage and the only differences are of the highlighted words curvilinear and polygonal:

Present Application Claim 22

- A first **polygonal** menu comprising a first set of selectable options circumferentially disposed on the first **polygonal** menu; and
- A second **polygonal** menu comprising a second set of selectable options circumferentially disposed on the second **polygonal** menu, wherein the second **polygonal** menu is concentrically-disposed relative to the first **polygonal** menu, and wherein the second **polygonal** menu is displayed in response to a user selection of an option from the first set.

'362 Claim 22

- A first **curvilinear** menu comprising a first set of selectable options circumferentially disposed on the first **curvilinear** menu; and
- A second **curvilinear** menu comprising a second set of selectable options circumferentially disposed on the second **curvilinear** menu, wherein the second **curvilinear** menu is concentrically-disposed relative to the first **curvilinear** menu, and wherein the second **curvilinear** menu is displayed in response to a user selection of an option from the first set.

The present claim does not disclose expressly the first and second curvilinear menu with options that are concentrically disposed and displayed based on user selections as disclosed in '362. However, the present application does disclose the first and second set of polygonal menus with options that are concentrically disposed. A polygon menu is a curvilinear shape. Further, a triangle can have reference points along the curvilinear line of a circle. The examiners interpretation of the present claim, regarding a polygonal menu, is that a polygon shape is a curvilinear shape and visa versa. It would have been obvious to one of ordinary skill in the art, having the teachings of the present application and '362 before him at the time of the invention was made, to modify the polygonal menu taught by the present application to include the curvilinear menus of '362 in order to obtain a system that is able to display geometrically shaped menus. One would have been motivated to make such a combination because the ability to display menus in a visually interesting manner as taught by '362.

With respect to **dependant claims 23-24** when we compare the present claims to Claims 23-24 of '362 we can see the same verbiage and the only differences are of the highlighted words curvilinear and polygonal:

Present Application Claims 23-24

- A user interface comprising:
- A third **polygonal** menu comprising a third set of selectable options circumferentially disposed on the third **polygonal** menu, wherein the third **polygonal** menu is concentrically-disposed relative to the second **polygonal** menu, and wherein the third **polygonal** menu is displayed in response to a user selection of an option from the second set.
 - The first and second **polygonal** menus are ring-shaped.

'362 Claims 23-24

- A user interface comprising:
- A third **curvilinear** menu comprising a third set of selectable options circumferentially disposed on the third **curvilinear** menu, wherein the third **curvilinear** menu is concentrically-disposed relative to the second **curvilinear** menu, and wherein the third **curvilinear** menu is displayed in response to a user selection of an option from the second set.
 - The first and second **curvilinear** menus are ring-shaped

The present claims do not disclose expressly the third curvilinear menu with options that are concentrically disposed and displayed based on user selections and that the first and second curvilinear menus are ring shaped as disclosed in '362. However, the present application does disclose the third menu that is concentrically disposed relative to the first and second set of polygonal menus with options that are ring shaped. A polygon menu is a curvilinear shape. Further, a triangle can have reference points along the curvilinear line of a circle. The examiners interpretation of the present claim, regarding a polygonal menu, is that a polygon shape is a curvilinear shape and visa versa. It would have been obvious to one of ordinary skill in the art, having the teachings of the present application and '362 before him at the time of the invention was made, to modify the polygonal menu taught by the present application to include the curvilinear menus of '362 in order to obtain a system that is able to display geometrically shaped menus. One would have been motivated to make such a combination because the ability to display menus in a visually interesting manner as taught by '362.

With respect to **dependant claims 25-30** when we compare the present claims to Claims 25-30 of '362 we can see the same verbiage and the only differences are of the highlighted words curvilinear and polygonal:

Present Application Claims 25-30

The user interface comprising:

- A fixed selection indicator;
- Wherein the first **polygonal** menu is rotatable to align a desired option from the first set of selectable options with the fixed selection indicator.
- The second **polygonal** menu is rotatable to align a desired option from the second set with the fixed selection indicator.
- A first movable selection indicator configured to move circumferentially around the first **polygonal** menu to align with a desired option from the first set.
- A second movable selection indicator configured to move circumferentially around the second **polygonal** menu to align to a desired option from the second set.
- The selectable options from the second set are determined by a selected option from the first set.
- The selectable options from the second set are sub-options of a selected option from the first set.

'362 Claims 25-30

The user interface comprising:

- A fixed selection indicator;
- Wherein the first **curvilinear** menu is rotatable to align a desired option from the first set of selectable options with the fixed selection indicator.
- The second **curvilinear** menu is rotatable to align a desired option from the second set with the fixed selection indicator.
- A first movable selection indicator configured to move circumferentially around the first **curvilinear** menu to align with a desired option from the first set.
- A second movable selection indicator configured to move circumferentially around the second **curvilinear** menu to align to a desired option from the second set.
- The selectable options from the second set are determined by a selected option from the first set.
- The selectable options from the second set are sub-options of a selected option from the first set.

The present claims do not disclose expressly the rotating about a common axis of the first and second *curvilinear menus* and where the menu is only partially displayed and the rotating of the *curvilinear menu* about an axis in response to a user command as disclosed in '362. However, the present application does disclose the first and second set of polygonal menus, with rotating the menu about an axis and detecting a user's selection and the ability to display partial menus and moving the selection indicator to the selection. A polygon menu is a curvilinear shape. Further, a triangle can have reference points along the curvilinear line of a circle. The examiner's interpretation of the present claim, regarding a polygonal menu, is that a polygon shape is a curvilinear shape and visa versa. It would have been obvious to one of ordinary skill in the art, having the teachings of the present application and '362 before him at the time of the invention was made, to modify the polygonal menu taught by the present application to include the curvilinear menus of '362 in order to obtain a system that is able to display geometrically shaped menus. One would have been motivated to make such a combination because the ability to display menus in a visually interesting manner as taught by '362.

With respect to **dependent claims 31-39** when we compare the present claims to Claims 31-39 of '362 we can see the same verbiage and the only differences are of the highlighted words *curvilinear* and *polygonal*:

Present Application Claims 31-39

The user interface:

- Where the selectable options from the first and second sets are hierarchically related.
- Where at least one selectable option comprises an icon.
- Where at least one selectable option comprises text description.
- Wherein at least one selectable option is associated with an audio sample, and wherein the audio sample is played in response to the corresponding option being aligned with a selection indicator.
- Where the second **polygonal** menu is concentrically displayed around the first **polygonal** menu.
- Where the second **polygonal** menu is concentrically displayed within the first **polygonal** menu.
- Where the first and second **polygonal** menus are rotatable about a common axis in response to a user command.
- Where the first **polygonal** menu is only partially displayed, and wherein the first set of selectable options comprises a subset of available options associated with the first **polygonal** menu.
- Where the first **polygonal** menu is rotatable in response to a user command to display a different subset of available options.

'362 Claims 31-39

The user interface:

- Where the selectable options from the first and second sets are hierarchically related.
- Where at least one selectable option comprises an icon.
- Where at least one selectable option comprises text description.
- Where at least one selectable option is associated with an audio sample, and wherein the audio sample is played in response to the corresponding option being aligned with a selection indicator.
- Where the second **curvilinear** menu is concentrically displayed around the first **curvilinear** menu.
- Wherein the second **curvilinear** menu is concentrically displayed within the first **curvilinear** menu.
- Wherein the first and second **curvilinear** menus are rotatable about a common axis in response to a user command.
- Wherein the first **curvilinear** menu is only partially displayed, and wherein the first set of selectable options comprises a subset of available options associated with the first **curvilinear** menu.
- Where the first **curvilinear** menu is rotatable in response to a user command to display a different subset of available options.

The present claims do not disclose expressly the rotating about a common axis of the first and second *curvilinear menus* and where the menu is only partially displayed and the rotating of the *curvilinear menu* about an axis in response to a user command as disclosed in '362. However, the present application does disclose the first and second set of polygonal menus, with rotating the menu about an axis and detecting a user's selection and the ability to display partial menus and moving the selection indicator to the selection. The present application also discloses the menu options can be icons and text descriptions and the ability to display a different set of available options. A polygonal menu is a curvilinear shape. Further, a triangle can have reference points along the curvilinear line of a circle. The examiners' interpretation of the present claim, regarding a polygonal menu, is that a polygon shape is a curvilinear shape and visa versa. It would have been obvious to one of ordinary skill in the art, having the teachings of the present application and '362 before him at the time of the invention was made, to modify the polygonal menu taught by the present application to include the curvilinear menus of '362 in order to obtain a system that is able to display geometrically shaped menus. One would have been motivated to make such a combination because the ability to display menus in a visually interesting manner as taught by '362.

With respect to **independent claim 40**, when we compare the present claim to Claim 40 of '362 we can see the same verbiage and the only differences are of the highlighted words *curvilinear* and *polygonal*:

Present Application Claim 40

A computer program product for performing a method for obtaining user input in a graphical user interface, the method comprising:

- Displaying at least a portion of a first **polygonal** menu comprising a first set of selectable options circumferentially disposed on the first **polygonal** menu;
- Receiving a user selection of an option from the first set of selectable options; and
- Displaying at least a portion of a second **polygonal** menu comprising a second set of selectable options circumferentially disposed on the second **polygonal** menu, wherein the second **polygonal** menu is concentrically-disposed relative to the first **polygonal** menu.

'362 Claim 40

A computer program product for performing a method for obtaining user input in a graphical user interface, the method comprising:

- Displaying at least a portion of a first **curvilinear** menu comprising a first set of selectable options circumferentially disposed on the first **curvilinear** menu;
- Receiving a user selection of an option from the first set of selectable options; and
- Displaying at least a portion of a second **curvilinear** menu comprising a second set of selectable options circumferentially disposed on the second **curvilinear** menu, wherein the second **curvilinear** menu is concentrically-disposed relative to the first **curvilinear** menu.

The present claim does not disclose expressly the first and second polygonal menu with options that are concentrically disposed and displayed based on user selections as disclosed in '362. However, the present application does disclose the first and second set of curvilinear menus with options that are concentrically disposed. A polygon menu is a curvilinear shape. Further, a triangle can have reference points along the curvilinear line of a circle. The examiners interpretation of the present claim, regarding a polygonal menu, is that a polygon shape is a curvilinear shape and visa versa. It would have been obvious to one of ordinary skill in the art, having the teachings of the present application and '362 before him at the time of the invention was made, to modify the polygonal menu taught by the present application to include the curvilinear menus of '362 in order to obtain a system that is able to display geometrically shaped menus. One would have been motivated to make such a combination because the ability to display menus in a visually interesting manner as taught by '362.

With respect to **independent claim 41**, when we compare the present claim to Claim 41 of '362 we can see similar verbiage and highlighted differences:

Present Application Claim 41

A system for obtaining user input in a graphical user interface, the system comprising:

- Means for displaying at least a portion of a first **polygonal** menu comprising a first set of selectable options circumferentially disposed on the first **polygonal** menu;
- Means for receiving a user selection of an option from the first set of selectable options; and
- Means for displaying at least a portion of a second **polygonal** menu comprising a second set of selectable options circumferentially disposed on the second **polygonal** menu, wherein the second polygonal menu is concentrically disposed relative to the first **polygonal** menu.

'362 Claim 41

A system for obtaining user input in a graphical user interface, the system comprising:

- Means for displaying at least a portion of a first **curvilinear** menu comprising a first set of selectable options circumferentially disposed on the first **curvilinear** menu;
- Means for receiving a user selection of an option from the first set of selectable options; and
- Means for displaying at least a portion of a second **curvilinear** menu comprising a second set of selectable options circumferentially disposed on the second **curvilinear** menu, wherein the second **curvilinear** menu is concentrically disposed relative to the first **curvilinear** menu.

The present claim does not disclose expressly the first and second curvilinear menu with options that are concentrically disposed and displayed based on user selections as disclosed in '362. However, the present application does disclose the first and second set of polygonal menus with options that are concentrically disposed. A polygon menu is a curvilinear shape. Further, a triangle can have reference points along the curvilinear line of a circle. The examiners interpretation of the present claim, regarding a polygonal menu, is that a polygon shape is a curvilinear shape and visa versa. It would have been obvious to one of ordinary skill in the art, having the teachings of the present application and '362 before him at the time of the invention was made, to modify the polygonal menu taught by the present application to include the curvilinear menus of '362 in order to obtain a system that is able to display geometrically shaped menus. One would have been motivated to make such a combination because the ability to display menus in a visually interesting manner as taught by '362.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

6. **The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:**

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 1- 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Easty et al. (hereinafter Easty) U.S. patent No. 6,448,987 B1 issued Sep. 10, 2002 and filed Apr. 3, 1998.**

In the examiners interpretation, a polygon is a triangle with three sides that is a synonymous geometric shape as a curvilinear shape. In, each of the following claims the words curvilinear and polygon can be substituted for one another.

In regard to **Independent claim 1**, Easty teaches the method for obtaining user input in a graphical user interface, the method comprising:

- *Displaying at least a portion of a first polygonal menu comprising a first set of selectable options circumferentially disposed on the first polygonal menu;* (Easty column 2, lines 62-67 and column 3, lines 1-20 and Figure 1a –1c) Easty teaches a polygonal menu with a set of inner and outer rings. The categories on the inner and outer rings are dynamically determined at the time of the display and the icons on each menu ring are individually selectable or highlighted.
- *Receiving a user selection of an option from the first set of selectable options;* (Easty column 5, lines 45-67) Easty teaches the user selects one of the options from the menu ring.
- *And displaying at least a portion of a second polygonal menu comprising a second set of selectable options circumferentially disposed on the second polygonal menu, wherein the second polygonal menu is concentrically-disposed relative to the first polygonal menu;* (Easty column 2, lines 62-67 and column 3, lines 1-20 and Figure 1a –1c) Easty teaches a second inner ring is displayed based on content and a user selection.

With respect to **dependant claim 2**, Easty teaches the following:

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- *Receiving a user selection of an option from the second set of selectable options;* (Easty column 5, lines 45-67) Easty teaches the user selects one of the options from the menu ring.
- *And displaying at least a portion of a third polygonal menu comprising a third set of selectable options circumferentially disposed on the third polygonal menu, wherein the third polygonal menu is concentrically-disposed relative to the first and second polygonal menus;* (Easty column 2, lines 62-67 and column 3, lines 1-20) Easty teaches two or more concentric rings can be displayed.

With respect to **dependant claim 3**, Easty teaches *the each side of the first polygonal menu is associated with a particular selectable option, and wherein the number of selectable options in the first set determines the number of sides for the first polygonal menu.*

(Easty Fig 1a – 1c) Easty teaches the categories are determined dynamically at the time of selection and when a user selects an option the sub-options are displayed on an inner menu.

With respect to **dependant claim 4**, Easty teaches the following:

- *Rotating the first polygonal menu about an axis to align a desired option from the first set with a fixed selection indicator.* (Easty column 3, lines 14-20) Easty teaches the appearance of the outer menu being rotated about its center from the initial setting to the new setting.

With respect to **dependant claim 5**, Easty teaches the following:

- *Detecting a user action indicating selection of the option aligned with the selection indicator.* (Easty column 3, lines 14-20) Easty teaches that if the selection indicator is already highlighted the icons will be redisplayed.

With respect to **dependant claim 6**, Easty teaches the following:

- *Moving a selection indicator circumferentially around the first polygonal menu to align the selection indicator with a desired option from the first set. (Easty column 4, lines 52-63)*

Easty teaches the variety of ways the menu items may be highlighted or selected by surrounding the icon with a highlighting icon, which has a shape with a border.

With respect to **dependant claim 7**, Easty teaches the following::

- *Detecting a user action indicating selection of the option aligned with the selection indicator. (Easty column 3, lines 14-25)* Easty teaches the action of displaying the corresponding inner ring or content from the user selection which is highlighted.

With respect to **dependant claim 8**, Easty teaches *the selectable options from the second set are determined by a selected option from the first set. (Easty column 3, lines 10-25)* Easty teaches the inner ring of content is a sub-category of the outer ring, which is determined dynamically at the selection time.

With respect to **dependant claim 9**, Easty teaches *the selectable options from the second set are sub-options of a selected option from the first set. (Easty column 3, lines 10-25)* Easty teaches the inner ring of content is a sub-category of the outer ring, which is determined dynamically at the selection time.

With respect to **dependant claim 10**, Easty teaches *the selectable options from the first and second sets are hierarchically related. (Easty column 4, lines 1-17)* Easty teaches the inner ring indicates a subcategory of the outer ring of digital contents.

With respect to **dependant claim 11**, Easty teaches *at least one selectable option comprises an icon. (Easty column 4, lines 1-17)* Easty teaches the inner ring and outer rings are menu items represented by icons.

With respect to **dependant claim 12**, *Easty teaches at least one selectable option comprises text description.* (Easty column 6, lines 31) Easty teaches icons using characters are displayed.

With respect to **dependant claim 13**, *Easty teaches at least one selectable option is associated with an audio sample, and wherein the audio sample is played in response to the corresponding option being aligned with a selection indicator.* (Easty column 3, lines 30-35) Easty teaches the response to a users selection of a category and subcategory will display further information or will deliver the content to the user.

With respect to **dependant claim 14**, *Easty teaches the second polygonal menu is concentrically displayed around the first polygonal menu.* (Easty Figure 1a-1c) Easty teaches the inner and outer concentric rings are displayed around one another.

With respect to **dependant claim 15**, *Easty teaches the second polygonal menu is concentrically displayed within the first polygonal menu.* (Easty Figure 1a-1c) Easty teaches the inner and outer concentric rings are displayed around one another

With respect to **dependant claim 16**, *Easty teaches receiving a user selection of an option from the second set comprises:*

- *Rotating the second polygonal menu about an axis to align a desired option from the second set with a fixed selection indicator* (Easty column 5, lines 45-67) Easty teaches the rotating the inner and outer rings based on the user selections.

With respect to **dependant claim 17**, *Easty teaches the receiving of a user selection of an option from the second set comprises:*

- *Moving a selection indicator circumferentially around the second polygonal menu to align the selection indicator with a desired option from the second set. (Easty figure 1c and column 5 lines 64-67 and column 6, lines 1-5) Easty teaches a highlighting icon is used to show the inner and outer ring selections. Easty teaches the appearance of the border icon being moved from the old position to the new selected position.*

With respect to **dependant claim 18**, Easty teaches *the first and second polygonal menus are rotatable about a common axis in response to a user command. (Easty figure 1a-1c and column 5, lines 17-67 and column 6, lines 1-4) Easty teaches the process of showing a rotation effect of moving the highlighted icon from the old position to the new user selected position. The entire menu (inner and outer) will be rotated.*

With respect to **dependant claim 19**, Easty teaches *the second polygonal menu is displayed in response to the selection of an option from the first set. (Easty column 5, lines 17-44) Easty teaches the second or inner menu is dynamically displayed with a users selection.*

With respect to **dependant claim 20**, Easty teaches *the first polygonal menu is only partially displayed in the graphical user interface, and wherein the first set of selectable options comprises a subset of available options associated with the first polygonal menu. (Easty column 5, lines 17-44) Easty teaches that restrictions may be applied to restrict the viewing to a subset of the available options.*

With respect to **dependant claim 21**, Easty teaches *the first polygonal menu is rotatable in response to a user command to display a different subset of available options. (Easty column 4, lines 1-28) Easty teaches that the categories displayed are determined dynamically and by other characteristics and then subcategorized in the inner ring.*

With respect to **Independent claim 22**, Easty teaches a user interface comprising:

- *A first polygonal menu comprising a first set of selectable options circumferentially disposed on the first polygonal menu; and* (Easty column 2, lines 62-67 and column 3, lines 1-20 and Figure 1a –1c) Easty teaches a polygonal menu with a set of inner and outer rings. The categories on the inner and outer ring are dynamically determined at the time of the display and the icons on each menu ring are individually selectable or highlighted.
- *A second polygonal menu comprising a second set of selectable options circumferentially disposed on the second polygonal menu, wherein the second polygonal menu is concentrically-disposed relative to the first polygonal menu, and wherein the second polygonal menu is displayed in response to a user selection of an option from the first set* (Easty column 2, lines 62-67 and column 3, lines 1-20 and Figure 1a –1c). Easty teaches a second inner ring is displayed based on content and a user selection. Easty also teaches the user selects one of the options from the menu ring. (Easty column 5, lines 45-67)

With respect to **dependant claim 23**, Easty teaches the following:

- *A third polygonal menu comprising a third set of selectable options circumferentially disposed on the third polygonal menu, wherein the second polygonal menu is concentrically-disposed relative to the first polygonal menu, and wherein the second polygonal menu is displayed in response to a user selection of an option from on the first set* (Easty column 2, lines 62-67 and column 3, lines 1-20) Easty teaches two or more concentric rings can be displayed.

With respect to **dependant claim 24**, Easty teaches *the first and second polygonal menus are ring-shaped*. (Easty Fig 1a – 1c) Easty teaches the GUI is shaped in concentric rings.

With respect to **dependant claim 25**, Easty teaches the following:

- *A fixed selection indicator;* (Easty column 3, lines 14-20) Easty teaches a highlighting indicator.
- *Wherein the first polygonal menu is rotatable to align a desired option from the first set of selectable options with the fixed selection indicator.* (Easty column 3, lines 14-20) Easty teaches the menu is rotated with a user selection.

With respect to **dependant claim 26**, Easty teaches *the second polygonal menu is rotatable to align a desired option from the second set with the fixed selection indicator.* (Easty column 5, lines 64-67 and column 6, lines 1-4) Easty teaches the animated appearance of a highlighting icon that gives the appearance of a rotatable ring as the border icon moves from the old position to the new position.

With respect to **dependant claim 27**, Easty teaches the following:

- *A first movable selection indicator configured to move circumferentially around the first polygonal menu to align with a desired option from the first set.* (Easty column 5, lines 14-44) Easty teaches the highlighting border icon that shows the user selections and the visual rendering gives the illusion of the indicator moving from one selection to the next.

With respect to **dependant claim 28**, Easty teaches the following:

- *A second movable selection indicator configured to move circumferentially around the second polygonal menu to align to a desired option from the second set.* (Easty column 5, lines 14-67) Easty teaches the selection indicator around the second or inner menu that is highlighted based on the user selection and gives the illusion of the border icon moving from the old position to the new position.

With respect to **dependant claim 29**, *Easty teaches the selectable options from the second set are determined by a selected option from the first set.* (Easty column 3, lines 10-25) Easty teaches the inner ring of content is a sub-category of the outer ring, which is determined dynamically at the selection time.

With respect to **dependant claim 30**, *Easty teaches the selectable options from the second set are sub-options of a selected option from the first set.* Easty column 3, lines 10-25) Easty teaches the inner ring of content is a sub-category of the outer ring, which is determined dynamically at the selection time.

With respect to **dependant claim 31**, *Easty teaches the selectable options from the first and second sets are hierarchically related.* (Easty column 4, lines 1-17) Easty teaches the inner ring indicates a subcategory of the outer ring of digital contents.

With respect to **dependant claim 32**, *Easty teaches at least one selectable option comprises an icon.* (Easty column 4, lines 1-17) Easty teaches the inner ring and outer rings are menu items represented by icons.

With respect to **dependant claim 33**, *Easty teaches at least one selectable option comprises text description.* (Easty column 6, lines 31) Easty teaches icons using characters are displayed

With respect to **dependant claim 34**, *Easty teaches at least one selectable option is associated with an audio sample, and wherein the audio sample is played in response to the corresponding option being aligned with a selection indicator.* (Easty column 3, lines 30-35) Easty teaches the response to a users selection of a category and subcategory will display further information or will deliver the content to the user.

With respect to **dependant claim 35**, Easty teaches *the second polygonal menu is concentrically displayed around the first polygonal menu*. (Easty Figure 1a-1c) Easty teaches the inner and outer concentric rings are displayed around one another.

With respect to **dependant claim 36**, Easty teaches *the second polygonal menu is concentrically displayed within the first polygonal menu*. (Easty Figure 1a-1c) Easty teaches the inner and outer concentric rings are displayed around one another.

With respect to **dependant claim 37**, Easty teaches *the first and second polygonal menus are rotatable about a common axis in response to a user command*. (Easty figure 1a-1c and column 5, lines 17-67 and column 6, lines 1-4) Easty teaches the process of showing a rotation effect of moving the highlighted icon from the old position to the new user selected position. The entire menu (inner and outer) will be rotated.

With respect to **dependant claim 38**, Easty teaches *the first polygonal menu is only partially displayed, and wherein the first set of selectable options comprises a subset of available options associated with the first polygonal menu*. (Easty column 5, lines 17-44) Easty teaches that restrictions may be applied to restrict the viewing to a subset of the available options.

With respect to **dependant claim 39**, Easty teaches *the first polygonal menu is rotatable in response to a user command to display a different subset of available options*. (Easty column 4, lines 1-28) Easty teaches that the categories displayed are determined dynamically and by other characteristics and then subcategorized in the inner ring.

With respect to **Independent claim 40**, a computer program product for performing a method for obtaining user input in a graphical user interface, the method comprising; (Easty column 6, claim 1, lines 52-67)

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- *Displaying at least a portion of a first polygonal menu comprising a first set of selectable options circumferentially disposed on the first polygonal menu; receiving a user selection of an option from the first set of selectable options; (Easty column 2, lines 62-67 and column 3, lines 1-20 and Figure 1a –1c) Easty teaches a polygonal menu with a set of inner and outer rings. The categories on the inner and outer ring are dynamically determined at the time of the display and the icons on each menu ring are individually selectable or highlighted.*
- *And displaying at least a portion of a second polygonal menu comprising a second set of selectable options circumferentially disposed on the second polygonal menu, wherein the second polygonal menu is concentrically-disposed relative to the first polygonal menu. (Easty column 5, lines 14-67) Easty teaches the selection indicator around the second or inner menu that is highlighted based on the user selection and gives the illusion of the border icon moving from the old position to the new position.*

With respect to **Independent claim 41**, Easty teaches a system for obtaining user input in a graphical user interface, the system comprising: (Easty column 7, claim 9, lines 52-67)

- *Means for displaying at least a portion of a first polygonal menu comprising a first set of selectable options circumferentially disposed on the first polygonal menu; (Easty column 2, lines 62-67 and column 3, lines 1-20 and Figure 1a –1c) Easty teaches a polygonal menu with a set of inner and outer rings. The categories on the inner and outer ring are dynamically determined at the time of the display and the icons on each menu ring are individually selectable or highlighted.*
- *Means for receiving a user selection of an option from the first set of selectable options; and (Easty column 5, lines 45-67) Easty teaches the user selects one of the options from the menu ring.*
- *Means for displaying at least a portion of a second polygonal menu comprising a second set of selectable options circumferentially disposed on the second polygonal menu,*

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wherein the second polygonal menu is concentrically disposed relative to the first polygonal menu. Easy column 2, lines 62-67 and column 3, lines 1-20 and Figure 1a – 1c) Easy teaches a second inner ring is displayed based on content and a user selection.

References to specific columns, figures or lines should not be limiting in any way. The entire reference provides disclosure related to the claimed invention.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent Number 5,798,760 to Vayda et al. issued Aug. 25, 1998, filed Jun. 7, 1995, and discloses a system for displaying a radial graphical menu system with concentric menuing.

U.S. Patent Number 6,819,344 B2 to Robbins et al. issued Nov. 16, 2004, filed Mar. 12, 2001, and discloses a system with a multi-dimensional capability of displaying stored data in the form of menus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Theriault whose telephone number is (571)272-5867. The examiner can normally be reached on M-F 7:00 - 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon can be reached on (571)272-4136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SBT

BA HUYNH
PRIMARY EXAMINER